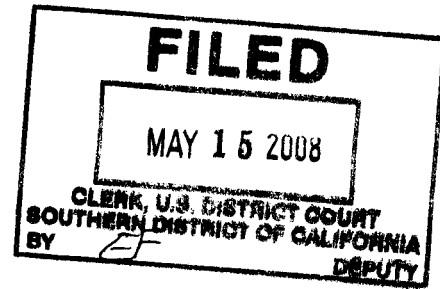


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Magistrate Case No. 08MJ1307
Plaintiff,) 08CR1573-DMS
v.)
VIRGIL RUIZ-VALENZUELA (4),)
Defendant.)

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Douglas Keehn, Assistant United States Attorney, and defendant VIRGIL RUIZ-VALENZUELA, by and through and with the advice and consent of Michael S. Berg, counsel for defendant, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

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WDK:psd:5/6/08

✓, ✓

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **May 28, 2008**.

6 4. The material witnesses, Jesus Magallon-Berrospe, Catalina Mendoza-Quinones, and
7 Salvador Avila-Gutierrez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 April 23, 2008;

11 c. Were found in vehicles driven by defendant and codefendant Eddie Duane
12 Simon, in El Centro, California and that defendant knew or acted in reckless disregard of the fact that
13 they were aliens with no lawful right to enter or remain in the United States;

14 d. Were paying and/or having others pay on their behalf \$2,500-\$3,000 to others
15 to be brought into the United States illegally and/or transported illegally to their destination therein;
16 and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

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28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Virgil Ruiz-Valenzuela (4)

1 b. The United States may elicit hearsay testimony from arresting agents
2 regarding any statements made by the material witness(es) provided in discovery, and such testimony
3 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
4 of (an) unavailable witness(es); and,

5 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
6 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
7 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
8 waives the right to confront and cross-examine the material witness(es) in this case.

9 6. By signing this stipulation and joint motion, defendant certifies that defendant has
10 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
11 further that defendant has discussed the terms of this stipulation and joint motion with defense
12 counsel and fully understands its meaning and effect.

13 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
14 immediate release and remand of the above-named material witness(es) to the Department of
15 Homeland Security for return to their country of origin.

16 It is STIPULATED AND AGREED this date.

17 Respectfully submitted,

18 KAREN P. HEWITT
19 United States Attorney

20 Dated: _____.

21 Dated: 5/14/08.

22 Dated: May 14, 08

23 DOUGLAS KEEHN
24 Assistant United States Attorney

25 MICHAEL S. BERG
26 Defense Counsel for RUIZ-VALENZUELA

27 VIRGIL RUIZ-VALENZUELA
28 Defendant

Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Virgil Ruiz-Valenzuela (4)

ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 5-15-08


United States Magistrate Judge